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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/814,299	04/01/2004	Mikio Oomori	04329.3297	8613
22852	7590	10/02/2006	EXAMINER	
FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP 901 NEW YORK AVENUE, NW WASHINGTON, DC 20001-4413			RAHMAN, FAHMIDA	
		ART UNIT	PAPER NUMBER	
			2116	

DATE MAILED: 10/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/814,299	OOMORI, MIKIO	
	Examiner	Art Unit	
	Fahmida Rahman	2116	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 01 April 2004.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-10 is/are pending in the application.
 4a) Of the above claim(s) 8 and 9 is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1-7 and 10 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) 1-10 are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1.) Certified copies of the priority documents have been received.
 2.) Certified copies of the priority documents have been received in Application No. _____.
 3.) Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date <u>4/1/2004</u> .	5) <input type="checkbox"/> Notice of Informal Patent Application
	6) <input type="checkbox"/> Other: _____.

DETAILED ACTION

1. Claims 1-10 are pending.

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-7, 10, drawn to setup support system and method supporting setup of a computer, classified in class 713, subclass 1.
- II. Claims 8-9, drawn to physical access to a storage medium using function call, classified in class 710, subclass 1.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because the accessing to storage may invoke a function for physical access. The subcombination has separate utility such as storing data in the storage medium other than setup environment.

The examiner has required restriction between combination and subcombination inventions. Where applicant elects a subcombination, and claims thereto are subsequently found allowable, any claim(s) depending from or otherwise requiring all the limitations of the allowable subcombination will be examined for patentability in

accordance with 37 CFR 1.104. See MPEP § 821.04(a). Applicant is advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application.

During a telephone conversation with Paul Gurzo (on behalf of Richard Burgujian, attorney of the record) on 9/11/06 a provisional election was made with traverse to prosecute the invention of group 1, claims 1-7, 10. Affirmation of this election must be made by applicant in replying to this Office action. Claims 8-9 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 3, 6, 7, 10 are rejected under 35 U.S.C. 102(e) as being anticipated by Knapp, III (US Patent Application Publication 2004/0019822).

For claim 1, Knapp, III teaches the following limitations:

A setup support system which supports setup of a computer (200), including installation of an operating system (280 and 290) to be installed (330) in a storage medium (260 and 270) that requires initialization (creating RAID-1 data storage system as mentioned in [0011] of page 1), comprising: a physical access unit (240 and 250) configured to execute physical access to the storage medium without intervening the operating system (260 and 270 can be accessed when the OS is not installed as RAID construction occurs before OS installation); an interface unit configured to execute input operations for configuration setup of the computer, including initialization of the storage medium, at once ([0042] describes that the administrator can enter set up data); a setting parameter management unit configured to store setting parameters representing input setting contents in the storage medium before initialization by using the physical access unit ([0052] describes that the configuration is stored in slices). Therefore, installation software comprises setting parameter management unit); a medium setting unit (installation software) configured to initialize the storage medium after storage of the setting parameters by the setting parameter management unit ([0056] describes that the RAID-1 is constructed with a second copy of OS); and a setup unit (220 and associated fault tolerant subsystem) configured to read out the setting parameters stored in the storage medium by using the physical access unit after initialization of the storage medium by the medium setting unit ([0036] mentions that configuration are read out if disk drive fail. Therefore, failure causes stored setup

information to be read); and execute setup of the computer, including installation of the operating system, based on the setting parameters (RAID-1 is created and installation of OS is performed over RAID-1; [0056])

For claim 3, configuration database is created and stored. Since, the configuration can be user defined, this represents a progress situation of initialization in the medium.

For claims 6 and 7, RAID-1 is created on 260, 280, 270, 290 to store OS.

For claim 10, Knapp, III teaches the following limitations:

A setup support method of supporting setup of a computer (200), including installation of an operating system (280 and 290) to be installed (330) in a storage medium (260 and 270) that requires initialization (creating RAID-1 data storage system as mentioned in [0011] of page 1), the method comprising: executing input operations for configuration setup of the computer, including initialization of the storage medium, at once ([0040]); storing setting parameters representing input setting contents in the storage medium before initialization without intervening the operating system ([0052]; 320) ; initializing the storage medium after storage of the setting parameters ([0056]; 330); and reading out the setting parameters stored in the storage medium after initialization of the storage medium ([0036]), and executing setup of the computer, including installation of the operating system, based on the setting parameters ([0056]).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2, 4, 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Knapp III (US Patent Application Publication 2004/0019822)

For claim 2, Knapp does not mention that the BIOS is controlling the physical access. Examiner takes an official notice that accessing storage by invoking BIOS routine is well known in the art. One ordinary skill would be motivated to access storage through BIOS routine, since BIOS provides interface with hardware device.

For claims 4 and 5, [0036] mentions that database are read under the management of OS. However, Knapp does not store the parameters again. One ordinary skill would be motivated to store the parameters again, since the corrupted database needs to be corrected.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fahmida Rahman whose telephone number is 571-272-8159. The examiner can normally be reached on Monday through Friday 8:30 - 5:30. If

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attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynne Browne can be reached on 571-272-3670. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Fahmida Rahman
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Art Unit 2116



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